

**REMARKS**

Applicants were required to elect one of the following groups of claims:

Group I: Claims 1-7, 8-10, 22-28 and 29-32, drawn to a method for producing a bipolar separator plate, classified in class 429, subclass 36; and

Group II: Claims 11-18, 19-21, 33-40 and 41-44, drawn to a bipolar separator plate, classified in class 429, subclass 34.

Applicants elect, with traverse, claims 11 to 18, 19 to 21, 33 to 40 and 41 to 44 (*i.e.*, Group II) for further prosecution on the merits. However, it is respectfully submitted that the Restriction Requirement should be withdrawn for the following reasons.

In support of the Restriction Requirement, the Office Action states that the inventions of Groups I and II are distinct from each other. However, restriction under 35 U.S.C. § 121 can be made only if two inventions are *both* independent and distinct. "Independent," as defined in the M.P.E.P. (for purposes of restriction practice) means that "there is no disclosed relationship between the two or more subjects disclosed, that is, they are unconnected in design, operation or effect." M.P.E.P. § 802.01. It is respectfully submitted that the inventions of Groups I and II are not independent because claims 1 to 10 are drawn to a method of producing a porous flow field material for a bipolar separator plate and claims 22 to 32 are drawn to a method of producing a bipolar separator plate; while claims 11 to 21 are drawn to a porous flow field material for a bipolar separator plate and claims 33 to 44 are drawn to a bipolar separator plate.

For the above reasons, Applicants respectfully submit that the restriction of Group I and Group II is improper and Applicants respectfully request that the restriction of Group I from Group II be withdrawn.

The Office Action also required Applicants to elect a single disclosed species for prosecution on the merits, to which the claims of the present application shall be restricted if no generic claim is finally held to be allowable. Applicants were required to elect one of the following species:

- II-1: Claims 11-18 and 33-40, drawn to a porous flow field material for a bipolar separator plate; and
- II-2: Claims 19-21 and 41-44, drawn to a porous flow field material for a bipolar separator plate wherein [sic] the warp wires and weft wires are bonded together by metallurgical bond at at least substantially all of their points.

Applicants further provisionally elect claims 11 to 18 and 33 to 40 (*i.e.*, II-1). Applicants respectfully request that, upon the allowance of a generic claim, claims directed to non-elected species including all the limitations of the generic claim be considered, in accordance with 37 C.F.R. § 1.141, and ultimately allowed.

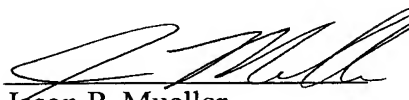
If for any reason the Examiner believes that prosecution of this application would be advanced by contact with the Applicants' attorney, the Examiner is invited to contact the undersigned at the telephone number given below.

The Commissioner is authorized to charge any necessary fees or credit any overpayments under 37 C.F.R. §§ 1.16 and 1.17 to Deposit Account No. 11-0600. If for any reason the Examiner believes that prosecution of this application would be advanced by

contact with the Applicant's attorney, the Examiner is invited to contact the undersigned at the telephone number given below.

Respectfully submitted,  
KENYON & KENYON

Dated: 1/5, 2007

By:   
Jason P. Mueller  
Reg. No. 58,603

KENYON & KENYON LLP  
One Broadway  
New York, NY 10004

Direct Dial: 212-908-6147  
Fax: 212-425-5288  
General Tel: 212-425-7200